

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 7, 2014

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2013AP534

Cir. Ct. No. 2000CF2839

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

DAVID E. BOWERS, SR.,

DEFENDANT-APPELLANT.

APPEAL from orders of the circuit court for Milwaukee County:
ELLEN R. BROSTROM, Judge. *Affirmed.*

Before Curley, P.J., Fine and Kessler, JJ.

¶1 PER CURIAM. David E. Bowers, Sr., *pro se*, appeals the circuit court's order denying his motion for postconviction relief under WIS. STAT.

§ 974.06 (2011-12).¹ He also appeals an order denying his motion for reconsideration. The issue is whether his action is barred by *State v. Escalona-Naranjo*, 185 Wis. 2d 168, 517 N.W.2d 157 (1994). We conclude that it is barred. Therefore, we affirm.

¶2 Bowers was convicted of two counts of first-degree sexual assault of a child on September 27, 2000. He was sentenced to an indeterminate term of twenty years of imprisonment on the first count and eighteen years of imprisonment on the second count, to be served consecutively. We affirmed the judgment of conviction on November 6, 2002. Since his direct appeal, Bowers has filed multiple postconviction motions collaterally attacking his conviction, one of which we affirmed after he appealed to this court. On January 18, 2013, Bowers moved the circuit court to withdraw his plea or amend his sentence. On January 25, 2013, the circuit court denied the motion as procedurally barred by *Escalona-Naranjo*. On February 18, 2013, Bowers moved for reconsideration. On February 22, 2013, the circuit court denied the motion for reconsideration. Bowers now appeals to this court.

¶3 “[A]ny claim that could have been raised on direct appeal or in a previous Wis. Stat. § 974.06 ... postconviction motion is barred from being raised in a subsequent § 974.06 postconviction motion, absent a sufficient reason.” *State v. Lo*, 2003 WI 107, ¶2, 264 Wis. 2d 1, 665 N.W.2d 756 (footnote omitted); *see also Escalona-Naranjo*, 185 Wis. 2d at 184-85. “[D]ue process for a convicted defendant permits him or her a single appeal of that conviction and a single

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

opportunity to raise claims of error.” *State ex rel. Macemon v. Christie*, 216 Wis. 2d 337, 343, 576 N.W.2d 84 (Ct. App. 1998). “Successive, and often reformulated, claims clog the court system and waste judicial resources.” *Id.*

¶4 Since his conviction, Bowers has had a direct appeal, and has filed multiple postconviction motions under WIS. STAT. § 974.06, all of which have been denied. Bowers has not provided a sufficient reason for not previously raising his current claim. Absent a sufficient reason for failing to raise the claim, he cannot escape the procedural bar. As so succinctly stated by our supreme court in *Escalona-Naranjo*, “[w]e need finality in our litigation.” *Id.*, 185 Wis. 2d at 185. We conclude that Bowers is subject to the procedural bar of *Escalona-Naranjo* and its progeny.

By the Court.—Orders affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

